IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 217 (SS) of 2005

Bhoop Singh Saini,
S/o Sri Bhangad Singh,
Presently posted as Rajaswa Nirikshak,
Tehsil – Vikas Nagar,
Dehradun. ……Petitioner.

Versus

1. Chief Revenue Commissioner, Uttarakhand, Dehradun.
2. Commissioner, Garhwal Division, Pauri.
3. Collector, Dehradun.

……Respondents.

Hon'ble M.M. Ghildiyal, J

Heard Sri Manoj Tiwari, learned counsel for the petitioner and Sri Paresh Tripathi, learned Counsel for State of Uttarakhand on behalf of respondents.

On 19.09.2005, this court passed following order:

"Heard Sri Manoj Tewari, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner who was working as a "Lekhpal" with the respondents was nominated for training of Revenue Inspector in the year 2001. The said nomination was not acted upon by the respondents. On 30th April 2004, five persons were nominated for the training to be promoted for the post of Revenue Inspector, however, the name of the petitioner did not find place in the said list. Again on 19th October 2004 four persons were nominated for the training and the name of the petitioner was left over for the second time. The petitioner in its complaint has made allegation that the persons who were passed over in the earlier nominations, in view of the adverse entry to their credit, they have been

nominated for the training but the petitioner who has excellent record has been left aside.

The respondents have filed counter affidavit. The stand of the respondents is that the nomination of 2001 was not acted upon by the respondents but no explanation has been stated as to why the said nomination was not acted upon. This Court directed the respondents to file supplementary counter affidavit explaining therein why the nomination prepared in the year 2001 was not acted upon.

The case was again listed on 08.09.2005. On that date further one week, and no more, time was granted to the respondents to file supplementary affidavit. Till date no supplementary affidavit is filed by the respondents.

Learned Standing Counsel has submitted that he may be granted three days' time to seek instructions in this regard. On the persuasion of the learned Standing Counsel, post the writ petition after one week. Until further order of this Court, the petitioner who is working as Revenue Inspector on the basis of Ad-hoc promotion, shall not be reverted."

After passing of this order respondents have filed supplementary counter affidavit in compliance of the court's order and from perusal of paras 6 and 7 of supplementary counter affidavit, it is clear that why nomination made in the year 2001 was not acted upon. Paras 6 and 7 of supplementary counter affidavit are quoted as under:

> *6. That as the post of Revenue Inspector is the promotional post and its appointing authority is the Board of Revenue, therefore, in pursuance of Government Order dated 24.05.2001 the nomination proposal of the Lekpal / Patwari from the District level, was sent to Govt; vide office letter no. 01.07.2001. Due*

to the facility of training was not available and Board of Revenue not established in the State of Uttarakhand, no action was taken on the nomination proposal of that year i.e. 2001 and the said list / proposal was not acted upon.

7. That after the establishment of the Chief Revenue Commissioner, Uttarakhand and after the arrangement of training for Revenue Inspector at Patwari Training School, Almora, the nomination proposal of the Lekpals was called / required by the Chief Revenue Commissioner, Uttarakhand, vide letter no. 1019/12 – Revenue Inspector, Training 0-04-05 dated 09.11.2004. True photo copy of the letter dated 09.11.2004 is being filed herewith and is marked as Annexure No. SCA 2 to this affidavit. In pursuance to the said latter dated 09.11.2004 of the Chief Revenue Commissioner the nomination proposal of the Lekpals, was forwarded to the Commissioner and Chief Revenue Commissioner vide office letter dated 17.11.2004 on that basis the senior lekhpals from the petitioner, Sri Jai Prakash Sharma and Sri Ishwar Singh I had been selected and given training of Revenue Inspector, in the session first training 2004-05."

The Services of the Rajaswa Nirikshak are governed by U.P. Subordinate Revenue Executive (Supervisor Kanoongo) Service Rules 1977. According to Rules, appointment on the post of Rajaswa Nirikshak can by made by way of direct recruitment as well as by way of promotion from amongst permanent Lekpals. From perusal of the Rules, it is clear that prior to the appointment on the post of Rajaswa Nirikshak,

training is required to be completed by the person concerned, though he is appointed by way of direct recruitment or through promotion.

Every year District Magistrate shall prepare a list of persons holding the post of Lekpal for training and will send the same to the Commissioner of the Division and Commission of the Division shall select number of persons amongst nominees for training to the extent posts are vacant in his division.

It is admitted fact that in the year 2001 petitioner was nominated by District Magistrate, Dehradun but he could not join the training, as the nomination was not acted upon and the reason why nomination was not acted upon in the year 2001is that after creation of State of Uttarakhand, State of Uttarakhand was not having the facility to provide training to those persons who have been selected for training.

In absence of pleadings in the writ petition, it is not clear whether petitioner was ever nominated by District Magistrate for the subsequent year for training or not? From perusal of para 21 of the writ petition it reveals that in November, 2004 when the respondents were initiating nomination of similar persons ignoring the seniority of the petitioner, petitioner has submitted representation before Chief Revenue Commissioner and the Commissioner, however, he has not made representation to the District Magistrate, who has to nominate for training.

It is also not disputed that in the year 2006, nomination for training has been made by the District Magistrate. However, petitioner has not joined the training in view of his

illness. According to the petitioner, he was exempted by Commissioner twice in the year 2006.

Whether exemption was made by Commissioner or Chief Revenue Commissioner but without completion of training petitioner is not entitled for regular promotion on the post of Rajaswa Nirikshak. As and when the petitioner completes training, he will be entitled for promotion on the post of Rajaswa Nirikshak and respondents may consider the case of petitioner for promotion in accordance with law.

In case, trained persons are not available with the Department and posts of Rajaswa Nirikshak are vacant, then Department may consider permanent untrained Lekpals for *ad hoc* / officiating promotion on the post of Rajaswa Nirikshak in accordance with law.

With this direction, writ petition as well as all the pending applications are finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

July 31, 2007
SKS